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DEPARTMENT OF PLANNING
STAFF REPORT

BOARD OF SUPERVISORS PUBLIC HEARING

DATE OF HEARING: January 8, 2008

ZOAM 2007-0004, PROPOSED ZONING ORDINANCE AMENDMENT
TO PERMIT FARM MARKETS IN VARIOUS ZONING DISTRICTS

DECISION DEADLINE: At the Pleasure of the Board

ELECTION DISTRICT: Countywide

PROJECT PLANNER: John Merrithew

EXECUTIVE SUMMARY

On July 9, 2007, the Planning Commission adopted a resolution giving notice of its intent to amend the Revised 1993 Loudoun County Zoning Ordinance ("the Ordinance") to add Farm Markets without agricultural production on-site, which sell agricultural, horticultural, and aquacultural goods produced in Loudoun County, as a permitted use pursuant to Section 5-603 in the following zoning districts: AR-1 (Agricultural Rural-1), AR-2 (Agricultural Rural-2), JLMA-2 (Joint Land Management Area - 2), R-1 (Single Family Residential), R-2 (Single Family Residential), R-3 (Single Family Residential), R-4 (Single Family Residential), R-8 (Single Family Residential), R-16 (Townhouse/Multifamily Residential), R-24 (Multifamily Residential), PD-CC (Planned Development - Commercial Center), PD-OP (Planned Development - Office Park), PD-RDP (Planned Development - Research and Development Park), PD-IP (Planned Development - Industrial Park), and PD-GI (Planned Development - General Industry). The proposal also seeks to amend the Additional Regulations for Specific Uses related to Farm Markets and to amend the definition of Farm Market.

The amendment and review at the Planning Commission has proceeded without staff input because of other Board work program priorities.

Recommendations

Planning Commission

The Planning Commission voted 5-1-1-2 (Lewis opposed, Whitmore recused, Hsu and Syska absent) to recommend approval of the amendment.

Staff

Staff has not provided a thorough review of the proposal and therefore cannot make a recommendation at this time. Staff does recommend that should the Board wish to proceed with this proposal, staff be given an opportunity to review the implications of these changes and identify, if necessary, other suggested means to accomplish the same purpose.

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SUGGESTED MOTIONS

1. I move that the Board of Supervisors forward ZOAM 2007-0004, Farm Markets, to the February 5, 2008 Business Meeting for action.

Or

2. I move that the Board of Supervisors forward ZOAM 2007-0004, Farm Markets, to the Transportation/Land Use Committee for further discussion and that staff be directed to complete a thorough review of the proposal prior to Committee action.

Or

3. I move that the Board of Supervisors forward ZOAM 2007-0004, Farm Markets, to the Planning Commission for reconsideration and that staff be directed to complete a thorough review prior to Commission recommendation.

Or

4. I move an alternate motion.

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I. PROPOSED ORDINANCE AMENDMENTS

Section 5-603 (A)

A minimum of 25% of the gross sales receipts must be derived directly from agricultural, horticultural or aqua cultural products produced ~~on-site~~ in Loudoun County. An annual report verifying the portion of sales derived from products produced in the County shall be submitted on request to the Zoning Administrator.

Article 8 – Definitions

Farm Market: A principal use which includes the sale of agricultural, horticultural or aqua cultural products including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider and similar agriculture products. A minimum of 25% of the products must be agricultural horticultural or aqua cultural products produced ~~on-site~~ in Loudoun County.

Farm market is added or reclassified as a permitted use in the following zoning districts:

2-1103 Use Regulations. Table 2-1103 summarizes the principal use regulations of the JLMA-2 district.

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
RESIDENTIAL USES			
Household Living	Accessory dwelling (accessory to single family detached dwelling)	P	Section 5-613
	Dwelling, single-family detached, including manufactured housing	P	Manufactured housing subject to Section 5-620
	Guest house (accessory to single family detached dwelling)	P	Section 5-612
	Home occupation (accessory to single family detached dwelling)	P	Section 5-400
	Model home	P	Section 5-500(A)

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TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Portable dwelling/trailer during construction of primary residence	P	Section 5-500
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Orphanage or similar institution	S	
	Tenant dwelling	S	Section 5-602
AGRICULTURAL USES			
Agriculture	General Use Category	P	Section 5-626
Horticulture	General Use Category	P	Section 5-626
Animal Husbandry	General Use Category	P	Section 5-626
Agriculture Support and Services directly related to on-going agriculture, horticulture and animal husbandry activity, on-site	Agricultural processing	P	Section 5-627
	Animal care business	P	Section 5-627
	Custom operators	P	Section 5-627
	Direct market business for sale of products produced on-site-including but not limited to PYO (pick-your-own)	P	Section 5-627
	Equestrian facilities	P	Section 5-627
	Equestrian facility, on lots of less than fifty (50) acres, or without frontage on a state maintained road	S	Section 5-627
	Virginia farm winery	P	Section 5-627

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USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Farm based tourism events	P	Section 5-628
	Farm co-ops	P	Section 5-627
	Farm machinery sales, rental, and services	S	Section 5-627
	Farm machinery repair	P	Section 5-627
	Farm markets (moved to Retail Sales and Service)	P	Section 5-603
	Mill feed and farm supply center	S	Section 5-627
	Nursery, commercial	S	Section 5-605
	Nursery, production	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
	Pet farms	P	Section 5-627
	Stable, private	P	Section 5-627
	Stable, neighborhood, on lots less than twenty-five (25) acres, or without frontage on a state maintained road	S	Section 5-627
	Wayside stand	P	Section 5-604
	Wetlands mitigation bank	P	Section 5-627
PUBLIC AND INSTITUTIONAL USES			
Day Care Facilities	Child care home	P	Section 5-609
	Child or adult day care center	S	Section 5-609
Cultural	Bus shelter	P	

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USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
and Government Facilities	Community center	S	
	Community center, HOA facilities only	P	
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with 50 spaces or less	P	
	Library	S	
	Structure or use for federal, state, County, or local governmental purposes, not otherwise listed	S	
Education	School (elementary or middle), for fifteen (15) pupils or less	S	Section 5-655
	School (elementary, middle, or high), for more than 15 pupils	S	
Park and Open Space	Cemetery	S	Section 5-637
	Mausoleum	S	Section 5-637
	Crematorium	S	Section 5-637
	Community, neighborhood or regional park, passive recreational uses	P	
	Community, neighborhood or regional park, active recreational uses	S	
Public Safety	Fire and/or rescue station	S	Section 5-638
	Police station or substation	S	Section 5-638
Religious Assembly	Church, synagogue or temple, with seating capacity of 300 or less in sanctuary or main area	P	Section 5-639

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TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Church, synagogue or temple, with seating capacity of more than 300 in sanctuary or main activity area, or with accessory schools, day care centers with more than 50 children, recreational facilities	S	Section 5-639
Utility	Public utility service center and storage yard	S	Section 5-621
	Recycling drop off collection center, public	P	Section 5-607
	Recycling drop off collection center, private	S	Section 5-607
	Sewer and water treatment plant	S	Section 5-621
	Utility substation, distribution	S	Section 5-616
	Utility transmission line, overhead (excluding connections of lines from public utility transmission lines to individual development sites)	S	Unless excepted by Section 1-103 (D)
	Sewage and Water pumping station	P	Section 5-621
	Water storage tank	S	Section 5-621
COMMERCIAL USES			
Food and Beverage	Restaurant	S	Section 5-643
Office	Construction and/or sales trailer, during period of construction activity subject to establishment of date certain for removal	P	
Recreation and Entertainment	Camp, day and boarding	S	Section 5-645
	Golf course	S	Section 5-648

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USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Retail Sales and Service	Artist studio	S	
	<u>Farm Markets</u>	<u>P</u>	<u>Section 5-603</u>
	Small business	P/S	Section 5-614
Visitor Accommodation	Bed and breakfast homestay	P/S	Section 5-601
	Bed and breakfast inn	S	Section 5-601
INDUSTRIAL USES			
Telecommunication Use and/or Structure	Radio and/or television tower	S	Section 5-618
	Telecommunications antenna	P	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)

Section 3-102 (R-1)

Add the following as a permitted use:

(X) Farm Market

Section 3-202 (R-2)

Add the following as a permitted use:

(V) Farm Market

Section 3-302 (R-3)

Add the following as a permitted use:

(U) Farm Market

Section 3-402 (R-4)

Add the following as a permitted use:

(T) Farm Market

Section 3-503 (R-8)

Add the following as a permitted use:
(R) Farm Market

Section 3-603 (R-16)

Add the following as a permitted use:
(O) Farm Market

Section 3-703 (R-24)

Add the following as a permitted use:
(O) Farm Market

Section 4-203 (PD-CC)

Add the following as a permitted use:
(A)(34) (32) Farm Market

Section 4-303 (PD-OP)

Add the following as a permitted use:
(H) (BB) Farm Market

Section 4-403 (PD-RDP)

Add the following as a permitted use:
(H) (HH) Farm Market

Section 4-503 (PD-IP)

Add the following as a permitted use:
(MM) (II) Farm Market

Section 4-603 (PD-GI)

Add the following as a permitted use:
(OO) (NN) Farm Market

II. PLANNING COMMISSION REVIEW AND FINDINGS

The Commission conducted a public hearing on November 19, 2007. There was no public comment. The Commission distinguished between farm markets and wayside stands and concluded that the sale of produce grown or raised on-site can be accommodated by wayside stands while the farm markets offer a broader retail opportunity. The distinction between the two uses is clear in their definitions:

Farm Market: A principal use which includes the sale of agricultural, horticultural or aqua cultural products including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider and similar agriculture products. A minimum of 25% of the products must be agricultural horticultural or aqua cultural products produced ~~on-site~~ in Loudoun County.

Wayside Stand: Any structure or land used for the sale, by the owner or his family or tenant, of agricultural or horticultural produce, livestock or merchandise principally produced on said farm, but may include produce grown on other farms and accessory products, and which is clearly a secondary use of the premises and does not change the character thereof.

The Commission also reviewed how the County-sponsored farm markets are permitted, noting that the community or county-sponsored farm markets are located in the towns consistent with town zoning or are located in non-residential districts such as the Cascades Market Center.

The Commission voted on the amendment at the public hearing and recommended approval by a vote of 5-1-1-2 (Lewis opposed, Whitmore recused and Hsu and Syska absent).

III. PROJECT REVIEW

When the Planning Commission initiated the proposed Ordinance amendment, staff asked that the matter be forwarded to the Board to get authorization to redirect staff resources and to insert the ZOAM in the Board's work program. At the time, staff was continuing the Zoning Ordinance Annual Review and working on the Mixed Use Business District and other assignments. The Commission elected to proceed without staff input in order to expedite the process. The language and the advertisement were then prepared by the leadership of the Planning Commission. As such, Zoning, Economic Development, Transportation, and other possible affected agencies have not evaluated the proposal against the relevant policies, programs, or regulations.

A typical staff review would involve many levels of analysis, including:

- The proposed amendment's consistency with the Comprehensive Plan;
- The proposed amendment's affect on the administration of the Zoning Ordinance for those particular districts;
- Whether the proposed amendment is internally consistent with other provisions and standards found in the Zoning Ordinance;
- The potential increase in traffic generation and other similar impacts caused by an amendment to the Ordinance; and
- Whether the same intent can be achieved through other language, definitions, or performance measures.

Staff notes that Article 8 of the Zoning Ordinance, Definitions, was revised during the Zoning Ordinance Annual Review, to include a revision to the definition of "Farm Market." The revised definition adopted by the Board, and effective December 3, 2007, is very similar to the definition proposed in this ZOAM. However, after further investigation of the issue at hand, staff noted that broader changes to the Zoning Ordinance would be necessary in addition to the definition change already approved. These additional changes were not able to be implemented during the Annual Review due to timing and advertising constraints.

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IV. ATTACHMENTS (Unless noted otherwise, attachments are not available electronically but may be obtained from the Department of Planning)	PAGE NUMBER
1. Planning Commission Resolution of Intent to Amend	A-1
2. Proposed Ordinance Language	A-2
3. Citizen Correspondence	A-5